HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 2335 (M/S) of 2001

1. U.P. Sahkari Chini Sangh Village Kotdwar District-Pauri Garhwal through Deepak Bhatia
2. Deepak Bhatia S/o Shri Deenanand Bhatia licensee FL-2 Financial year 2000-2001. .....Petitioners

Versus

1. State of Uttaranchal through Collector Pauri Garhwal.
2. District Excise Officer Pauri Garhwal.
3. Station House Officer Police Station Satpuli District-Pauri. .....Opposite Parties

Sri Paresh Tripathi, Advocate for the petitioners
Standing Counsel for the respondents.

Dated: 18.7.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Paresh Tripathi, Counsel for the petitioners, and Standing Counsel for the respondents.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing the order dated 30.6.2001 passed by the Sessions Judge, Pauri Garhwal in criminal revision No. 11 of 2001, and the order dated 29.5.2001 passed by the Chief Judicial Magistrate, Pauri Garhwal.

Briefly stated, on 27.3.2001, the Police of Police Station Satpuli conducted search of truck No. U.P. 02 C-2707 and U.P. 06-2184 and it was found that on 26.3.2001 license issued by the U.P. Cooperative Sugar Factory federation limited Kotdwar, Pauri Garhwal, and it was revealed apart from the sanctioned quantity of liquor the Truck contained 49 cases of victor XXX

rum. The license was issued for Truck No. U.P. 06-2184, but the liquor was found carrying by truck No. 2707. On inquiry the Truck driver made a statement that excess liquor was loaded by some employee of the company on the basis of recovery memo first information report under section 60/72, Excise Act was lodged with the police station Gumkhal, Pauri Garhwal.

Since then a period of six years have already passed and liquor is lying in the police station, therefore, the Chief Judicial Magistrate, Pauri Garhwal is directed to pass appropriate order regarding the seized goods.

In the case Sunder Bhai Ambalal Desai vs. State of Gujrat (2002) 10 SCC 283, it has been observed as under:

"In our view, whatever be the situation it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending of applications for return of such vehicles."

In view of the law laid down above, the Chief Judicial Magistrate, Pauri Garhwal is directed to consider the release of the seized liquor in favour of its legitimate owner, if any.

Subject to the above observation, writ petition is disposed of.

No order as to costs.

Dated: 18.7.2006 **Rajesh Tandon, J.**

*Dhyani